

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

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No. 05-11720  
Non-Argument Calendar

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**FILED**  
**U.S. COURT OF APPEALS**  
**ELEVENTH CIRCUIT**  
**October 14, 2005**  
**THOMAS K. KAHN**  
**CLERK**

D. C. Docket No. 04-00069-CR-WS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TONY O'NEAL LLOYD,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Alabama

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**(October 14, 2005)**

Before HULL, WILSON and PRYOR, Circuit Judges.

PER CURIAM:

Tony O'Neal Lloyd appeals his sentence of 120 months of imprisonment

based on his conviction for possession of a firearm as a felon. 18 U.S.C. § 922(g)(1). Lloyd argues that because he committed his crime after Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 2531 (2004), but before United States v. Booker, 543 U.S. —, 125 S. Ct. 738 (2005), the district court violated his rights under the ex post facto principle of fair warning in the Due Process Clause when it enhanced his sentence based on post-verdict findings of fact and retroactively applied the sentencing guidelines as advisory. Because, as Lloyd concedes, we have rejected this argument, United States v. Duncan, 400 F.3d 1297 (11th Cir. 2005), and “only the Supreme Court or this Court sitting en banc can judicially overrule a prior panel decision,” United States v. Marte, 356 F.3d 1336, 1344 (11th Cir. 2004), we affirm.

**AFFIRMED.**